

PLANNING COMMISSION MINUTES

Gardner, Kansas
Monday, October 9, 2006

The Planning Commission met in regular session on the above date at the Gardner City Hall, 120 E. Main Street, Gardner, Kansas.

I. Call to Order

Vice-Chairman Greg Godwin called the meeting to order at 7:05 p.m. Commissioners present: Paul Kilgore, Eric Schultz, Jason Burnett, and Dan Popp. Commissioners absent: Eileen Mertz and Stephen Koranda. Also present: Community Development Director Fred Sherman; Planner Erik Pollom; applicant Doug Bohi of Blvd. Development, L.L.C.; engineer for the applicant Joel Riggs of Peridian Group, Inc., and Council Member Tom Breen.

II. Approval of Minutes

The minutes of the September 25, 2006, meeting, were approved by unanimous consent.

III. Agenda Items

1. Z-06-07; PDP-06-06

Conduct a public hearing and consider rezoning property from R-1 (Single Family Residential District) to RP-3 (Planned Garden Apartment District) for a 14.37 acre property located at 32520 W. 167th Street. The application is filed by Kill Creek Properties, L.L.C.; with engineering services provided by Peridian Group, Inc. *This item is to be tabled to the October 23, 2006, meeting.*

1. **APPLICANT:** Kill Creek Properties, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning of 14.4 acres from R-1 (Single-Family Residential District) to RP-3 (Planned Garden Apartment District).
3. **LOCATION:** The 14.4 acre property is located on the north side of 167th Street, about ½ mile east of Four Corners Road.
4. **EXISTING ZONING:** The property is currently zoned R-1; Single-Family District (Z-03-12, Ord. 2082).
5. **STAFF ANALYSIS OF THE APPLICATION:** A revised plan from the version that was presented to Planning Commission at the August 28, 2006, meeting has been submitted for consideration. This revised plan has been reviewed by staff. The applicant requests that the Planning Commission table consideration of this application to the October 23, 2006, meeting.
6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission table the public hearing and consideration of the rezoning and preliminary development plan for Kill Creek Run (Z-06-07, PDP-06-06), to the October 23, 2006, meeting.

Motion Schultz, second Popp, to table the Rezoning Request for the Kill Creek Properties, L.L.C., property (Z-06-07) and its associated Preliminary Development Plan for Kill Creek Run (PDP-06-06) to the October 23, 2006, Planning Commission meeting.

Motion to Table Carried: 5 to 0 Aye (Mertz, Koranda: Absent)

2. Z-06-08; PDP-06-08

Conduct a public hearing and consider rezoning property from A (Agricultural District) to CP-2 (Planned General Business District) for a 34.84 acre property located on the northeast corner of the 167th Street/Waverly Road intersection. The application is filed by Jabez Development, Inc.; with engineering services provided by Peridian Group, Inc.

Vice-Chairman Godwin opened the public hearing at 7:08 p.m.

Director Sherman presented the staff report.

1. **APPLICANT:** Jabez Investments, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning of 34.84 acres from A, Agricultural District, to CP-2, Planned General Business District.
A revised legal description and a revised preliminary development plan showing a reduced 26.7 acres of proposed CP-2 land area – and 8.1 acres of land that would need to be zoned for residential land uses that is not part of this rezoning application, was submitted for consideration at the October 9, 2006, Planning Commission meeting.
3. **LOCATION:** The 34.84 acre property is located on the northeast corner of the Waverly Road and 167th Street intersection.
4. **EXISTING ZONING:** The property is currently zoned A, Agricultural District, upon annexation into the City of Gardner (Ord 2172).
5. **CHARACTER OF THE NEIGHBORHOOD:** The land immediately surrounding the subject property is characterized as the developing northwest fringe of the City of Gardner. Existing uses include Madison Elementary School and a developing single family subdivision to the far south; single family residential uses, a church facility, agricultural, and residential uses on the west side of Waverly Road to the southwest; a developing single family subdivision (Megan Valley) to the immediate west; agricultural uses to the south and north (approved for a mixed-density residential development by Z-06-04); and two farms that are not incorporated into the City of Gardner to the immediate southeast (on the south side of 167th Street) and to the east (on the north side of 167th Street).
The other significant character defining elements in this immediate area are the new overhead power transmission lines running along the north side of 167th Street and the east side of Waverly Road, and the developing Gardner electrical substation site on the west side of Waverly Road, northwest of this subject property.
6. **LAND USE AND ZONING PATTERNS:** The surrounding properties are zoned R-1, Single Family Residential District, to the southwest and west; A, Agricultural District, to the immediate southwest; RP-3, Planned Garden Apartment District, to the north and east; RP-1, Planned Single Family Residential District, to the east; and Johnson County - RUR to the immediate southeast. The adjacent land to the south is currently zoned A, Agricultural District, but is requested for RP-3 zoning with Z-06-09 for consideration at the August 28, 2006, meeting.
7. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. Given the fact that the Development Plan Map shows the subject property as appropriate for low-density residential uses, the proposed CP-2, Planned General Business District, does not conform to the adopted Community Development Plan.
The Community Development Plan pursues appropriate quantities and locations of commercial land throughout the City. The locational criteria for commercial development, as discussed in the Commercial Land Use Goals, should be used as the basis for locating future commercial areas on the Development Plan Map and Future Land Use Map. The Commercial Land Use Goals are also used to evaluate the appropriateness of all rezoning and final development plan proposals for retail commercial developments. Commercial development areas are designed to occur in "nodes" to avoid continuous lineal shallow lot depth commercial development along the City's street corridors.
Specific adopted policies in the Community Development Plan regarding commercial land uses are:
Policy 1.5: Contain Commercial Development -
Encourage the formation, retention, and expansion of commercial development within the existing commercial boundaries as shown of the Community Development Plan Map.
Policy 2.1: Use Appropriate Transitional Methods -
Appropriate transitional methods should be considered at all locations where the development or expansion of commercial land use abuts residential property (either built or zoned). The city strives to meet the following objectives when compatible transition is necessary:
 - a) Site Orientation:
 - 1) Site design should be oriented toward thoroughfare or commercial streets.
 - 2) Site access should be off of thoroughfare or commercial streets.
 - 3) Where appropriate, streets may be used as boundaries between commercial and residential land uses.**Policy 2.3: Allow the Option of Low-Intensity Office as Transitional Use -**
Allow low-intensity office development as an alternative transitional land use into low-density residential neighborhoods with these conditions:
 - a) Such development must be compatible in architectural design, height, bulk, and building materials to the adjacent low-density residential developments.
 - b) Such development must demonstrate compatible site design by the use of extensive screening, building and parking orientation, and preservation of natural site amenities.
 - c) Traffic generated by such development must be directed away from residential areas and on to commercial streets.
 - d) Such development is limited to areas shown as Office on the Community Development Plan Map.**Policy 3.1: Follow Locational Criteria for All Commercial Development -**
The locational criteria for all commercial development are:
 - a) Limit commercial development to the areas shown as Commercial on the Community Development Plan Map.
 - b) Discourage the formation or expansion of strip commercial development by focusing new growth in a more clustered pattern.
 - c) Promote the assembling of small tracts to form larger, more cohesive parcels to enable well-planned and orderly development to occur.

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- d) Encourage commercial development to form as part of existing or new shopping centers as opposed to isolated parcels along commercial strips.
- e) Limit the principal access of commercial development to thoroughfare, reverse frontage, or commercial streets.
- f) Encourage commercial development to locate on sites having minimal slope to avoid substantial grading and disruption of natural drainage and vegetation.
- g) Promote the retention of stands of trees, natural vegetation, and environmentally sensitive areas whenever possible to act as buffers between developments and as site amenities within developments.

Policy 4.1: Avoid Exceeding Street Capacity -

Discourage the expansion of existing or the inclusion of new commercial development in areas where, even with street and traffic signal improvements, the additional traffic generated by such development would exceed the handling capacity of the street system.

8. STAFF ANALYSIS OF THE APPLICATION:

Previous Rezoning Consideration

Originally, this applicant submitted a request to rezone 16.8 acres to CP-2 and 17.8 acres to RP-3 (Z-06-03) on the properties north and south of 167th Street, east of Waverly Road. Based on work session discussions between the applicant's representative and Planning Commissioners, a revised development plan was submitted for consideration at the February 27, 2006, meeting. The final revision to the commercial development plan that was considered contained ten (10) commercial retail buildings totaling 132,900 square feet.

The Planning Commission ultimately voted 5 to 1 (Koranda: nay; Schultz: absent) to forward the rezoning application for the McCann Property Central from A, Agricultural District, to CP-2 and RP-3 Districts (Z-06-03), to the City Council with a recommendation for denial for the entire 47.64 acres. The City Council considered this item at the May 1, 2006, meeting. Council Members Breen, Peters, Drovetta, and Raney voted in favor of a motion to concur with the Planning Commission's recommendation to deny the rezoning request for the entire 47.64 acres. Councilmember Weisenburger voted against the motion for denial.

Current Rezoning Request – August 28, 2006, Version

The original proposed development plan for a 34.84 acre commercial area indicates eleven (11) commercial retail buildings totaling 207,300 square feet of commercial space, including reserved space for a 62,000 square foot grocery store. This is an increase of about 74,400 square feet from the previously submitted plan that was denied with the Z-06-03 rezoning request. No building elevations were provided with the revised development plan for the proposed commercial development areas.

Current Rezoning Request – October 9, 2006, Version

The latest version of the proposed development plan calls for a reduced 26.7 acres of commercial area, with (8) commercial buildings totaling 114,900 square feet of commercial space.

Commercial Land Use in the Northwest

While there is a strong community-wide desire to plan for and to accommodate retail locations in all parts of the City, the critical evaluation of the established policies and criteria for allowing new commercial development areas should be done judiciously, to prevent establishing an open door policy of allowing high intensity retail and commercial uses on the corner properties of every section line road in the City. Not all areas of the community would have the necessary exposure and high volume future traffic counts to ensure that commercial developments would attract a healthy mix of good tenants over time. By allocating and zoning too many commercial areas within the City of Gardner, staff fears that the sustainability of many of the community's commercial areas could be compromised.

Also, the planned road system within the City of Gardner cannot readily accommodate commercial development in all areas. Currently, this site is served by a two lane chip and seal ditch profile road on 167th Street and a gravel surface on Waverly Road north of 167th Street. If this rezoning request is recommended for approval, staff will provide suggested stipulations that would require the developer(s) of this retail development to improve the frontage of either or both Waverly Road and 167th Street to a City street standard that could safely accommodate the proposed land uses, based on an engineered traffic study.

From staff's perspective, it may be best to keep this subject property in its current agricultural zoning district to allow the community to evaluate the market needs, sizes, scopes and locations of future commercial retail areas as part of a long range planning process, rather than to grant a premature speculative rezoning request, especially one that is mostly contrary to the adopted Community Development Plan maps and policies.

9. **STAFF RECOMMENDATION:** Based on the adopted Community Development Plan, staff recommends that the Planning Commission forward the rezoning application Z-06-08, and the associated preliminary development plan, rezoning 34.84 acres from A, Agricultural District, to CP-2, Planned General Business District, to the City Council with a recommendation for denial.

The latest version of the preliminary development plan was not submitted in a timely manner to allow staff to conduct a thorough review and determine stipulations of approval if the Planning Commission found the plan and rezoning request to be acceptable. The requested traffic study for this commercial rezoning request has also not been submitted.

Vice-Chairman Godwin invited comments from the applicant.

Engineer for the applicant Joel Riggs of Peridian Group, Inc., gave a presentation.

Vice-Chairman Godwin invited questions from the commissioners. There were no questions from the commissioners.

Vice-Chairman Godwin invited comments from the public. There were no comments from the public.

Motion Burnett, second Schultz, to close the public hearing at 7:21 p.m.

Motion Carried: 5 to 0 Aye (Mertz, Koranda: Absent)

Vice-Chairman Godwin invited comments from the commissioners.

Commissioners Kilgore and Popp expressed their indecision about exactly where commercial development for the northwest area of the City should be located.

Commissioner Burnett stated that he would like the proposed plan if the southernmost Waverly Road access point were removed. He suggested that the City should let the market determine where future commercial development would grow in the northwest area of the City.

Commissioner Schultz stated that he liked the plan, and was not opposed to commercial development in the proposed location.

Vice-Chairman Godwin expressed his opinion that the appropriate sizes and locations of commercial developments in the northwest area of the City were still undetermined for most of the commissioners. He stated that the commission needed to clarify those factors before they could approve any commercial development in that area; and suggested considering a moratorium on all commercial development approvals until there could be a determination of the appropriate sizes and locations of future commercial developments in the subject area.

Mr. Riggs further discussed the applicant's overall development plan for the Waverly Road and 167th Street intersection area.

The commissioners and Director Sherman discussed the application history of the development plan for the subject area.

Commissioner Schultz stated his general preference for commercial development to be located further northwest of the subject area.

Vice-Chairman Godwin stated that the overall development plan looked good, and suggested tabling the item so that staff could continue reviewing and refining the report, which could be submitted for approval at the next meeting.

Mr. Riggs stated that the applicant did not want the item to be tabled, but would rather have a vote of approval or denial.

Vice-Chairman Godwin invited comments from the commissioners regarding revisions to the proposed plan to be resubmitted at the October 23, 2006, meeting.

Commissioner Kilgore stated that he could not approve any commercial development in the subject area without a more formal study of the northwest area of the City to determine appropriate locations for commercial development.

Commissioner Popp stated that he liked the plan and thought that a small neighborhood commercial district would be reasonable in that location.

Commissioner Burnett stated that, though he would like to see more detailed information on the plan, he thought that the item should be moved forward.

Commissioner Schultz agreed with Commissioner Burnett and restated the need for the southernmost Waverly Road access point to be removed.

Commissioner Godwin suggested that the parking aisle alignment at the front of the large building be changed to create a focal point, and that the fountain and storm water detention area should be redesigned to include a public gathering place.

Director Sherman pointed out that the revised plan would exclude the multi-family area indicated on the northeast corner of the subject plan.

Motion Schultz, second Burnett, to forward the Rezoning Request for the Jabez Investments, L.L.C., Property (north) (Z-06-08) and its associated Preliminary Development Plan for Granite Springs (north) (PDP-06-08) to the City Council with a recommendation for approval, subject to stipulations of approval and a revised development plan to be submitted for final approval by the Planning Commission at the October 23, 2006, meeting.

Motion to Forward Carried: 4 to 1 Aye (Kilgore: Nay; Mertz, Koranda: Absent)

Commissioner Kilgore stated that approving the proposed development plan could possibly set a precedent for further requests for approval of commercial developments in the northwest area of the City which the commission was not fully prepared to address until the desired overall development of that area was clarified.

3. Z-06-09; PDP-06-09

Conduct a public hearing and consider rezoning property from A (Agricultural District) to RP-3 (Planned Garden Apartment District) for a 12.08 acre property located on the southeast corner of the 167th Street/Waverly Road intersection. The application is filed by Jabez Development, Inc.; with engineering services provided by Peridian Group, Inc. .

Vice-Chairman Godwin opened the public hearing at 8:52 p.m.

Director Sherman presented the staff report.

1. **APPLICANT:** Jabez Investments, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning of 12.08 acres from A (Agricultural District) to RP-3 (Planned Garden Apartment District).
3. **LOCATION:** The 12.08 acre property is located on the southeast corner of the Waverly Road and 167th Street intersection.
4. **EXISTING ZONING:** The property is currently zoned A, Agricultural District, upon annexation into the City of Gardner (Ord 2172).
5. **CHARACTER OF THE NEIGHBORHOOD:** The land immediately surrounding the subject property is characterized as the developing northwest fringe of the City of Gardner. Existing uses include Madison Elementary School and a developing single family subdivision to the immediate south; single family residential uses to the southwest; a church facility, agricultural, and residential uses on the west side of Waverly Road to the immediate west; a developing single family subdivision (Megan Valley) to the northwest; agricultural and two existing residences to the north (approved for a

mixed-density residential development by Z-06-04); and two farms that are not incorporated into the City of Gardner to the immediate east (on the south side of 167th Street) and to the northeast (on the north side of 167th Street).

The other significant character defining elements in this immediate area are the new overhead power transmission lines running along the north side of 167th Street and the east side of Waverly Road, and the developing Gardner electrical substation site on the west side of Waverly Road, northwest of this subject property.

6. **LAND USE AND ZONING PATTERNS:** The surrounding properties are zoned R-1, Single Family Residential District, to the northwest and south; A, Agricultural District, to the immediate west and north; RP-3, Planned Garden Apartment District, and RP-1, Planned Single Family Residential District, to the northeast; and Johnson County - RUR to the immediate east and southeast.
7. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. Given the fact that the Development Plan Map shows the subject property as appropriate for low-density residential uses, the proposed RP-3, Planned Garden Apartment District, does not strictly conform to the Community Development Plan. Rezoning the property to RP-3 could be complementary with the intent and policies of the plan. The general goal of the plan for medium density residential land uses is to help form residential neighborhoods that are stable, safe and aesthetically pleasing. Specific policies for medium and high-density land uses include:

Policy 1.1: Ensure Quality Development

Encourage emphasis on open space, access to light and air, and the provision of amenities generally associated with and available to low-density residential development in all medium- and higher-density residential developments.

Policy 1.2: Preserve and Protect the Environment

Encourage the preservation and protection of trees, natural vegetation, wetlands, and environmentally sensitive areas in medium- and higher-density residential developments to serve as site amenities.

Policy 1.3: Provide Open Space

Encourage the provision of usable open space on site by clustering buildings to minimize the creation of narrow strips of unusable open space in front of and between buildings.

Policy 1.4: Consider Appropriate Density

The number of dwelling units per acre in any residential category should be viewed as representing a density range rather than a maximum allowable density. The exact density of a specific tract is to be determined at the time of rezoning based on the following:

- a) Only projects with exceptional design and locational criteria will warrant density exceeding the midpoint of the density range.
- b) Natural constraints, public facilities, streets and traffic patterns, neighborhood character, community need and surrounding zoning and land use patterns are to be taken into consideration.

Policy 1.5: Provide for Variety in Housing Types

Encourage the use of a variety of housing types, including townhomes, patio homes, duplexes, zero lot line homes, cluster housing, garden apartments and retirement housing.

Policy 2.1: Consider Land Use Relationships

The relationship of land uses should reflect consideration of existing development, environmental conditions, and service and access needs. No higher-density development (more than 15 units per net acre) shall have a property line common with properties zoned for single-family and designated as Low-Density Residential on the Future Development Plan unless such low-density property is used for a nonresidential land use such as a church, school or park.

Policy 2.2: Consider Access

Higher-density residential developments shall have frontage and main access directly on major thoroughfares.

Policy 2.3: Protect Areas Planned for Medium- and Higher-Density Residential Developments

Avoid reducing medium- and higher-density residential areas as shown on the Future Development Plan Map by allowing encroachment of nonresidential land uses which are not customarily allowed in residential districts.

Policy 2.4: Reserve Suitable Sites

Reserve suitable land areas of adequate size to accommodate medium- and higher-density residential development near or adjacent to employment centers.

Policy 2.7: Adhere to Future Development Plan

A feasibility study for developments increasing the amount of medium- and higher-density residential areas beyond what is shown on the Community Development Plan Map may be required to assist in the evaluation of a proposed project. The feasibility study will include:

- a) Explanation of why the area is not adequately served by the medium- and higher-density residential development shown on the Community Development Plan Map.
- b) An analysis of the impact of traffic generated by the development on adjacent streets.

Policy 3.1: Use Appropriate Transitional Methods

Appropriate transitional methods should be considered at all locations where the development or expansion of either more or less intensive land uses abut medium- and higher-density residential property (either built or zoned). In general, transitions between different types of intensities of land use should be made gradually, particularly where natural or man-made buffers are not available. Compatible transition from nonresidential or higher-density residential uses to lower density residential uses should consider:

- a) Site Orientation:
 - 1) Site design should be oriented so that less compatible uses such as recreational facilities are located in the interior of the development and not adjacent or in close proximity to low-density residential neighborhoods.
 - 2) Site access should be off of collector or thoroughfare streets.
 - 3) Where appropriate, streets may be used as boundaries between different intensities of land uses.

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- b) Building Relationships:
 - 1) A back-to-back relationship is preferable between different intensities of residential land uses.
 - 2) Medium-density residential uses should not have lesser setbacks than abutting low-density residential uses.
 - 3) The height and bulk of a medium-density residential buildings and accessory structures (clubhouses, satellite dishes, etc.) should be oriented away from low-density residential neighborhoods to avoid creating a negative visual effect.
 - 4) Where medium-density residential development adjoins or faces a low-density residential area, the medium-density residential development should incorporate low-rise structures of a lower-density character for those areas closest to the low-density development.
- c) Land Features:
 - 1) Promote the retention of stands of trees, natural vegetation, wetlands, and environmentally sensitive areas whenever possible to separate medium- or higher-density residential development from other more or less intensive land uses.
 - 2) Where possible, use existing differences in topography to naturally separate medium- and higher-density developments and other more or less intensive land uses.
- d) Screening and Landscaping:
 - 1) Encourage the creative and extensive use of landscaping and berming techniques for effective buffering between differing intensities of land uses and to increase neighborhood privacy and security.
 - 2) Avoid the use of fences as a sole means of providing screening and buffering.
 - 3) Promote the use of existing vegetation such as stands of trees and hedgerows as natural buffers.
 - 4) Encourage the use of high quality materials in the construction of fencing and landscaping to decrease long-term maintenance costs and to make it less likely that neglected, unsightly areas will occur.
- e) Lighting:
 - 1) Any lighting used to illuminate parking areas, signs or other structures shall be arranged so as to deflect light away from any adjoining property or from public streets through fixture type, height, and location.
 - 2) Exterior lighting of buildings shall be limited to low level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any such light source will not glare upon adjacent property or public streets.

Policy 3.4: Allow the Option of Medium-Density Residential as a Transitional Use

Allow the use of medium-density residential as a transitional land use between low-density residential and other more intensive uses.

8. **STAFF ANALYSIS OF THE APPLICATION:** The submitted development plan with this rezoning request indicates the development of six (6) 24 unit apartment buildings for a total unit count of 144, with a pool. The submitted preliminary development plan does not provide a breakdown detail of the bedroom count to confirm the parking requirements, nor were proposed building elevations provided.

This level of residential density, which is about 12 units per net acre, is being requested to allow development that is economically viable within the physical constraints of the property. The depth of the lot is constricted by a drainage way and flood plain to the south, such that there is insufficient space to develop the property with traditional single family residences that would require a public street.

The applicant's original rezoning request (Z-06-03) was to zone this property to CP-2, Planned General Business District. That rezoning request was denied. At that same City Council meeting, the property to the south was requested for medium-density residential as a transitional use, and was ultimately approved with a zoning of R-1, Single Family Residential, by provision of the lesser change table (Z-06-02, Ord. 2193).

The current request for RP-3 zoning at this site represents a northward shift of that proposed transitional land use onto a piece of ground that was deemed inappropriate for commercial development with the denial of Z-06-03 rezoning request. In staff's opinion, this property is physically prohibited from developing with many traditional detached low-density residential development uses.

October 9, 2006, Plan Revision – Changes to the Designated Flood Plain Area

An updated version of the preliminary development plan that reflects a different extent of the Kill Creek Drainage Basin modeled flood plain was submitted for the October 9, 2006, Planning Commission meeting. The previous version of the plan indicated that most of the denoted flood plain area was located on the R-1 zoned land area to the south of this subject tract. The applicant indicated to staff that the change on the current plan was caused by rectifying the flood plain model data with actual state plain coordinate survey controls. As a result, half of the buildings shown on this plan are now within the 100-year flood plain.

The City of Gardner has recently adopted APWA 5600 standards for storm water management. These adopted standards preclude the development of any residential structure within the 100-year flood plain. The only way to alleviate this on this property would be to bring in additional fill dirt and raise the building pad sites and/or improve existing downstream condition, such as the existing culvert under Waverly Road. No formal analysis on this matter has been presented to staff, nor has staff had adequate opportunity to review this issue given the submittal date of this latest version of the preliminary development plan.

9. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission forward rezoning application Z-06-09, rezoning 12.08 acres from A, Agricultural District, to RP-3, Planned Garden Apartment District, and its associated preliminary development plan, to the City Council with a recommendation for denial.

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If the Planning Commission finds that the proposed rezoning request and submitted preliminary development plan provides enough regulatory control on this property, then staff recommends that the Planning Commission consider the following stipulations of approval:

- a. The development shall be in accordance with Exhibit "A" (Preliminary Development Plan) which is filed in the office of the Planning Commission Secretary at City Hall and which is incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Gardner unless specifically exempted by the Governing Body.
- b. The development shall be limited to 144 units.
- c. Prior to or concurrent to a final plat and/or final development plan being submitted for this property, additional information regarding the proposed site grading, the protection of the identified riparian areas, and assurances that the proposed buildings will not fall within the 100-year flood plain based on the Kill Creek Drainage Basin Stormwater Study will need to be submitted for staff review.
- d. No portion of the proposed building footprints shall fall within the 100-year flood plain based on the Kill Creek Drainage Basin Stormwater Study.
- e. The location and geometrics of all driveways, sidewalks, public streets, and parking areas are subject to review and approval by Community Development Department staff.
- f. Prior to the issuance of building permits, the Planning Commission shall approve a final development plan for this subject property.

Vice-Chairman Godwin invited comments from the applicant.

Engineer for the applicant Joel Riggs of Peridian Group, Inc., gave a presentation.

Vice-Chairman Godwin invited questions from the commissioners. There were no questions from the commissioners.

Vice-Chairman Godwin invited comments from the public. There were no comments from the public.

Motion Schultz, second Popp, to close the public hearing at 9:03 p.m.

Motion Carried: 5 to 0 Aye (Mertz, Koranda: Absent)

Vice-Chairman Godwin invited comments from the commissioners.

Commissioner Popp stated that the multi-family development was a reasonable transition buffer between the single family residential development to the south and the commercial development to the north.

Commissioner Schultz asked if the applicant would build only the buildings not designated in the flood plain if adjustments could not be made to the flood plain. Mr. Riggs said that if the flood plain could not be decreased with improvements, they could not build on the designated flood plain.

Director Sherman, Mr. Riggs, and Vice-Chairman Godwin discussed the legal issues of approving a development plan with indicated items which were contrary to existing City regulations.

Commissioner Godwin stated that the commission would need to see the redesigned flood plain plan that Mr. Riggs spoke of before they could consider approving a proposed development plan.

Motion Kilgore, second Burnett, to forward the Rezoning Request for the Jabez Investments, L.L.C., Property (south) (Z-06-09) and its associated Preliminary Development Plan for Granite Springs (south) (PDP-06-09) to the City Council with a recommendation for denial.

Motion to Forward Carried: 5 to 0 Aye (Mertz, Koranda: Absent)

4. PDP-06-07

Conduct a public hearing and consider a Revised Preliminary Development Plan for University Park Multi-Family Townhomes, a 23.46 acre property located ½ mile northwest of the 167th Street and Moonlight Road intersection. The application is filed by Blvd. Development, L.L.C.; with engineering services provided by Peridian Group, Inc.

Vice-Chairman Godwin opened the public hearing at 9:25 p.m.

Director Sherman presented the staff report.

1. **APPLICANT:** The applicant is Blvd. Development, L.L.C.; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests approval of a revised preliminary development plan for a tract of land containing approximately 23.46 acres for planned multi-family residential development.
3. **LOCATION:** The property is located ½ mile northwest of the 167th Street and Moonlight Road intersection.
4. **EXISTING ZONING:** The property is zoned RP-3, Planned Garden Apartment District (Z-03-18).
5. **ANALYSIS:** The applicant requests approval of a revised preliminary development plan for the northwest portion of University Park, due to a proposed change of layout and increased density.

Plan Changes

This revised preliminary development plan was considered by the Planning Commission on August 28, 2006. At that meeting, the Commission voted to forward the plan to the City Council with a recommendation for approval. That version of the plan featured 295 residential units and private drives.

At the September 18, 2006, City Council meeting, the council voted to send the preliminary development plan back to the Planning Commission, expressing a desire for a reduction in density that more closely matched the originally stipulated 238 total units, and more analysis on the possible need to make the private drives into public streets.

There was a general discussion regarding this application at the September 25, 2006, Planning Commission meeting. Staff discussions with the applicant on this issue of private drives have focused in on if the streets are not made public at this time, they should be redesigned to more closely meet City standards, possibly being platted in a separate tract to allow the City to more easily taken over the private streets at a future date if necessary.

The combined directions of the Planning Commission and City Council resulted in a need to reduce the density to approximately 238 units, and for the private streets to be evaluated for the necessity to be either changed to public streets or private streets more closely meeting public city street standards, should they be taken over by the city at a future date.

Changes in Density

The current version of the submitted revised plan does little to address the two major concerns raised by the City Council, those being the total number of residential units and the private streets that do not meet City standards. The applicant has reduced the number of units from 295 to 281, a total reduction of 14 units from the plan considered by the City council on September 18, 2006. This is 43 units greater than the 238 units, or an 18% increase of density over the original preliminary development plan approved with the RP-3 zoning of this property. The applicant has stated that the increase in density is needed to warrant the large clubhouse and pool amenities.

Private Drive Issues

The submitted revision of the preliminary development plan still reflects the originally approved layout of private streets. This plan included 90 degree turns at several corners of the private streets. Staff suggested that these corners be given a sufficient curve radius to eliminate the tenant driveway conflicts created at many of the corners. These locations result in driveways that are extremely close together and at right angles to each other. This change was requested with the first version of the plan, and the changes made to this latest version of the plan have not been redesigned to address this potential problem.

In many areas, the number, size and spacing of driveways along the private streets result in very limited on-street parking opportunities. Given the single car garages with these units, on-street parking may become increasingly important for use by occupants and their visitors, or for the parking of boats, trailers, or other vehicles. The applicant has designed 90 degree head-in on-street parking stalls along several areas in an effort to address this issue. This change, while accomplishing the goal of providing additional parking, is a significant deviation from a public street standard which does not allow for head-in street parking.

The current plan shows a 50 foot access easement delineating a possible future right-of-way, should the private streets become public streets. In some parts of this plan, replacing the access easement with right-of-way would reduce the front yard setback to approximately 9 feet. The minimum front yard setback for a property fronting a 50 foot right-of-way in an R-3 zoning district is 30 feet. As this is a planned district, a lesser setback may be permitted. Section 16-509.3 of the zoning code for planned residential districts states that:

"Buildings may be located closer to lot lines than otherwise permitted provided such buildings are architecturally suitable for such a relationship to adjoining buildings or property, due consideration being given to future development of adjoining property under separate ownership."

Other factors to consider with private streets are the inability of public safety to patrol, enforce speed limits, or respond to minor traffic accidents; the difficulty of ensuring that proper snow removal or street maintenance is provided; and code enforcement issues.

This revised plan shows the private streets areas as access easements. The plan needs to be revised to show this as a separate tract of land, and the final plat of this property should dedicate the private street areas as a Tract(s) of land, which could be converted into right-of-way in the future if needed and desired.

Future Right-Of-Way

At the northern edge of this development plan, a 30 foot possible future right-of-way is shown. This, when combined with the 30 feet reserved on the adjacent property to the north, would provide a full 60 foot right-of-way for a potential future collector street. Until this area is dedicated as right-of-way, this area will provide private access from the quarry property to University Drive. In the future, there could be the potential for a public street that would pass through the quarry property to the west or connect to Gardner East Road and 162nd Terrace, providing a road connection between University Drive and Gardner Road when the quarry is no longer in operation. This revised plan shows this area as an easement. The plan needs to be revised to show this as a separate tract of land, and the final plat of this property should dedicate this as a Tract of land, which could be converted into right-of-way in the future if needed and desired.

Space Between Buildings

Staff anticipates that there will be future requests to replat this property into individual lots for each unit to allow individual ownership, much like the townhouse developments of Cottage Park. Many of the buildings shown on the submitted preliminary development plan are spaced only 10 feet apart. The minimum side yard setback for the R-3 zoning district is 7 feet. For a lot line to be platted between buildings in this zoning district, staff believes that they should strive to meet a minimum of 15 feet apart to allow the side yard space between buildings to meet the side yard setback standards in the R-3 district on either side of a lot line. Given the scale, mass, and length of these proposed townhouse buildings, a reduce side yard land area between buildings may not be desirable. The planned zoning district does allow for the placement of lot lines between individual buildings to be reduced, but it is staff's opinion that it is inappropriate to use this flexibility to ignore the standard minimum distance required between buildings without greater justification than a desire for an increase in density.

6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission forward the Preliminary Development Plan for University Park Multi-family (PDP-06-07) to the City Council with a recommendation for denial.

Should the Planning Commission choose to recommend approval, staff suggests that such approval be subject to the following conditions:

- a. The development shall be in accordance with Exhibit "A" (Preliminary Development Plan) which is filed in the office of the Planning Commission Secretary at City Hall and which is incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Gardner unless specifically exempted by the Governing Body.
- b. The development shall be limited to 240 units.
- c. Approval of this development plan includes the presumption that staff may design a layout for infrastructure. Should future revisions to this development plan be requested, those revisions may be limited to a design that does not conflict with any implemented infrastructure prescribed by this plan.
- d. The location and geometrics of all driveways, sidewalks, public streets, and parking areas are subject to review and approval by Community Development Department staff.
- e. Prior to the issuance of building permits, the Planning Commission shall approve a final development plan for this subject property.

Vice-Chairman Godwin invited comments from the applicant.

Engineer for the applicant Joel Riggs of Peridian Group, Inc., gave a presentation.

Vice-Chairman Godwin invited questions from the commissioners. There were no questions from the commissioners.

Vice-Chairman Godwin invited comments from the public. There were no comments from the public.

Motion Schultz, second Burnett, to close the public hearing at 9:40 p.m.

Motion Carried: 5 to 0 Aye (Mertz, Koranda: Absent)

Vice-Chairman Godwin invited comments from the commissioners.

Commissioner Popp agreed with all of the staff recommendations and suggested that the development needed more architectural variety.

Director Sherman explained the differences between public and private streets, such as parking issues, police patrols, maintenance, etc.

Motion Schultz, second Popp, to extend the meeting to 10:20 p.m.

Motion Carried: 5 to 0 Aye (Mertz, Koranda: Absent)

Director Sherman, Mr. Riggs, and the commissioners discussed the proposed density of the subject development.

Vice-Chairman Godwin stated that he had no problem with the indicated reduced front yard building setbacks, with the sidewalks immediately adjacent to the curbs, or with the head-in street parking. He did not like the ninety degree street corners, and agreed with staff's recommendation for fourteen foot side yard setbacks. He also discussed the proposed fifty foot wide tracts for the private streets and the need for the homeowners association covenants to be submitted for review with the final plat.

Motion Popp, second Burnett, to forward the revised Preliminary Development Plan for University Park Multi-Family (PDP-06-07) to the City Council with a recommendation for approval; subject to staff recommendations, changing Condition of Approval B. to "The development shall be limited to 250 to 260 units, and adding three additional conditions of approval:

- a. The development shall be in accordance with Exhibit "A" (Preliminary Development Plan) which is filed in the office of the Planning Commission Secretary at City Hall and which is incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Gardner unless specifically exempted by the Governing Body.
- b. The development shall be limited to 250 to 260 units.
- c. Approval of this development plan includes the presumption that staff may design a layout for infrastructure. Should future revisions to this development plan be requested, those revisions may be limited to a design that does not conflict with any implemented infrastructure prescribed by this plan.
- d. The location and geometrics of all driveways, sidewalks, public streets, and parking areas are subject to review and approval by Community Development Department staff.
- e. Prior to the issuance of building permits, the Planning Commission shall approve a final development plan for this subject property.
- f. The side yard building setbacks shall be a minimum of fourteen feet.
- g. The ninety degree corners on the private street shall be redesigned to meet City of Gardner street standards.
- h. The tract designated for the private street shall be a minimum for fifty feet wide.

Motion to Forward Carried: 5 to 0 Aye (Mertz, Koranda: Absent)

V. Adjourn

Motion Burnett, second Popp, to adjourn the meeting at 10:30 p.m.

Motion to Adjourn Carried: 5 to 0 Aye (Mertz, Koranda: Absent)

Cindy Weeks, Planning Service Specialist

PLEASE SIGN

PLEASE PRINT

NAME	COMPANY (if applicable)	ADDRESS
Tom Green		Gardner